

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**UNITED STATES OF AMERICA**

**V.**

**ANDREW LAMARK TALLEY**

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**CRIMINAL No. 6:06cr18-1**

**REPORT AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE JUDGE**

On November 4, 2008, the Court conducted a hearing to consider the United States' petition to revoke the supervised release of Defendant Andrew Lamark Talley. The United States was represented by Alan Jackson and Richard Moore, Assistant United States Attorneys for the Eastern District of Texas, and Defendant was represented by Ken Hawke, Assistant Federal Public Defender.

Defendant originally pleaded guilty to the offense of Felon in Possession of a Firearm, a Class C felony. The offense carried a statutory maximum imprisonment term of ten years. The United States Sentencing Guideline range, based on a total offense level of six and a criminal history category of V, was nine to fifteen months. On July 13, 2006, United States District Judge Leonard Davis sentenced Defendant to twelve months and one day imprisonment and two years supervised release, subject to the standard conditions of release, plus special conditions which included financial disclosure and drug aftercare. On May 24, 2007, Defendant completed his term of imprisonment and began the two year term of supervised release.

In its petition, the United States alleges that Defendant violated two conditions of his release. The United States alleges that 1) Defendant failed to report to the probation officer and submit a written monthly report form as directed in April, May, and June 2008 and that 2) Defendant changed his resident and employment without notifying the probation officer as required.

If the Court finds by a preponderance of the evidence that Defendant committed this violation, a statutory sentence of no more than two years of imprisonment may be imposed. 18 U.S.C. § 3583(e)(3). Section 7B1.1(a) of the Sentencing Guidelines indicates that if the Court finds by a preponderance of the evidence that Defendant violated conditions of supervision by failing to report as directed, failing to submit monthly report forms as directed, or failing to notify the probation officer of a change of residence and employment as required, Defendant will be guilty of committing a Grade C violation, for which the Court may revoke Defendant's term of supervised release in favor of a term of imprisonment or extend the term of supervised release and/or modify the conditions of supervision. U.S.S.G. § 7B1.3(a)(2). Considering Defendant's criminal history category of V, the Guideline imprisonment range for a Grade C violation is seven to thirteen months. U.S.S.G. § 7B1.4(a).

At the hearing, the parties indicated they had come to an agreement to resolve the petition whereby Defendant would plead true to the violation. Further, the parties agreed to recommend a sentence of twelve months and one day.

Pursuant to the Sentencing Reform Act of 1984 and the agreement of the parties, the Court **RECOMMENDS** that Defendant Andrew Lamark Talley be committed to the custody of the Bureau of Prisons for a term of imprisonment of twelve months and one day with no supervised release to follow. The Court further **RECOMMENDS** that Defendant be imprisoned at the Seagoville facility.

The parties have waived their right to object to the findings of the Magistrate Judge in this matter so the Court will present this Report and Recommendation to District Judge Leonard Davis for adoption immediately upon issuance.

So ORDERED and SIGNED this 6th day of November, 2008.

  
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JOHN D. LOVE  
UNITED STATES MAGISTRATE JUDGE